

§1, eff. July 2, 1991, and the commissioner no longer issues certificates of authority for such entities.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part III. Banks

Chapter 9. Limited Function Financial Institutions

§901. Applications; Filing, Processing, and Approval

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:859 (December 1988), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:2810 (December 2004).

§903. Certificate of Authority; Issuance, Refusal, and Renewal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:860 (December 1988), amended LR 16:200 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:2810 (December 2004).

§905. Certificate of Authority; Powers and Authority; Prohibitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:860 (December 1988), amended LR 16:201 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:2810 (December 2004).

§907. Records and Funds

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 14:860 (December 1988), amended LR 16:201 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:2810 (December 2004).

§909. Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:201 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:2810 (December 2004).

§911. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:451.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 16:202 (March 1990), repealed by the Office of the Governor, Office of Financial Institutions, LR 30:2810 (December 2004).

John Ducrest, CPA
Commissioner

0412#061

RULE

Office of the Governor Office of Financial Institutions

Repossession Agents LAC 10:XV(1301-1321)

Under the authority of the Louisiana Administrative Procedures Act, R.S. 49:950 et seq., amended by Acts 191 and 814 of the 2004 Regular Session of the Louisiana Legislature, I, the Commissioner of the Office of Financial Institutions, do hereby promulgate the following Rule regarding licensure and regulation of repossession agents, and for assessments and fees on such agents. These assessment and fees are necessary in order to effectively discharge its duty of ensuring that these regulated persons are properly overseen by the office to ensure compliance with the above referenced statutory provisions, and to allow for the licensure of repossession agents in conjunction with the effective date of the above referenced 2004 legislation. Repossession agents are individuals who physically obtain possession of collateral for a secured party and engage in the business or accept employment to locate and recover collateral pursuant to the Louisiana Additional Default Remedies Act, R.S. 6:965, et seq.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

Part XV. Other Regulated Entities

Chapter 13. Repossession Agents

§1301. Definitions

A. The following terms as used in this Chapter shall have the following meaning.

Apprentice A trainee who works under the direct supervision of a repossession agent.

Approved Association The National Finance Adjusters, Inc., Allied Finance Adjusters Conference, Inc., Time Adjusters Conference, Inc., the American Recovery Association, Inc., or a Louisiana association of duly licensed repossession agents recognized as a viable association by the commissioner, and who meet any additional qualifications for licensure established by the commissioner.

Change of Control For purposes of §1305.B means:

a. a change in beneficial ownership of 50 percent or more of the repossession agency's outstanding shares of stock or 50 percent or more of the combined voting power of the repossession agency; provided that any transfer to a person or entity who was a shareholder as of the later of the date the repossession agency was originally licensed or the date of the repossession agency's last approved change of control shall be disregarded;

b. a change in individuals who constitute the voting power of the board of directors, or other governing board of the repossession agency as of the later of the date the repossession agency was originally licensed or the date of the repossession agency's last approved change of control cease to comprise more than 50 percent of the voting power of such board of directors, board of managers, or other board; or

c. a change in the general partner or manager of the repossession agency or a change of control with respect to such general partner or manager; or

d. any merger or consolidation if a change of control has occurred based upon the surviving entity being considered to be a continuation of the repossession agency that was the party to the merger or consolidation transaction.

Collateral A motor vehicle including any motor driven car, van, or truck required to be registered which is used, or is designated to be used, for the transporting of passengers or goods for public, private, commercial, or for hire purposes; but does not include those vehicles which are commonly known as motor homes, mobile homes, trailers, semi-trailers, boat trailers, or motorcycles.

Combustibles Any substances or articles that are capable of undergoing combustion or catching fire, or that are flammable, if retained.

Commissioner The Commissioner of Financial Institutions.

Control Solely for purposes of determining whether a repossession agency controls, is controlled by, or is under common control with another person means:

a. the power or authority, whether exercised directly or indirectly, to direct or cause the direction of management and/or policies of a legal entity by contract or otherwise; or

b. to directly or indirectly own of record or beneficially hold with the power to vote, or hold proxies with discretionary authority to vote, 50 percent or more of the then outstanding voting securities issued by a repossession agency, when such control is used with respect to a specified person or legal entity;

c. for all other purposes, control means the power or authority, whether exercised directly or indirectly, to direct or cause the direction of management and/or policies of a repossession agency by contract or otherwise.

Dangerous Drugs Any controlled substances as defined in The Uniform Controlled Dangerous Substances Law, R.S. 40:961, et seq.

Deadly Weapon Any instrument or weapon of the kind commonly known as a blackjack, slingshot, bill, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or revolver, or any other firearm; any knife having a blade longer than 5 inches; any razor with an unguarded blade; and any metal pipe or bar used or intended to be used as a club.

Individual A natural person.

Office The Office of Financial Institutions.

Person A natural person, corporation, partnership, trust, association, joint venture pool, syndicate, unincorporated organization, limited liability company, or any other form of entity not specifically listed herein.

Personal Effects Movable property not covered by a security agreement, which is contained in or on collateral at the time it is repossessed.

Qualifying Agent The responsible officer or executive employee of a repossession agency designated as qualifying agent and who meets the requirements of a repossession agent.

Repossession Agency Any person who through a designated repossession agent engages in business or accepts employment to locate or recover collateral registered under the provisions of the Louisiana Vehicle Certificate of Title

Law, R.S. 32:701 et seq., which has been sold under a security agreement or used as security in a loan transaction, including any secured party which utilizes its employees to repossess collateral.

Repossession Agent An individual who physically obtains possession of collateral for a secured party and engages in business or accepts employment to locate or recover collateral registered under the provisions of the Louisiana Vehicle Certificate of Title Law, R.S. 32:701 et seq., which has been sold under a security agreement or used as security in a loan transaction, including a secured party's employee who repossess collateral pursuant to the Additional Default Remedies, Act R.S. 6:965, et seq.

Repossessor The repossession agency, qualifying agent, or repossession agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2810 (December 2004)

§1303. Licensing Requirements and Qualifications

A. No person shall engage in business as a repossession agency, qualifying agent or repossession agent in this state without first filing an application, paying a non-refundable application fee, and obtaining a license from the commissioner. Every application for a license shall contain such information as the commissioner may require when determining if the applicant meets the qualifications and requirements for a license. Each license expires December 31 and shall be renewed annually by the licensee.

B. Repossession Agency

1. No license shall be issued unless the commissioner, upon investigation, finds that the financial responsibility, character, and fitness of the applicant's qualifying agent/manager, owners, partners if the applicant is a partnership, members if the applicant is a limited liability company, officers and directors if the applicant is a corporation, and the applicant if a sole proprietorship are such as to warrant a belief that the business shall be conducted honestly and fairly within the purposes of this Chapter and each such person shall meet the following requirements:

a. be 18 years of age or older and a citizen of the United States or a resident alien holding proper documentation to work in the United States;

b. be of good character and fitness; and

c. not been convicted of a felony in the previous 10 years, regardless that the conviction was expunged, set aside, or received a first offense pardon. The only felony conviction which shall not be considered for purposes of this Chapter is one which received a governor's pardon or president's pardon. The commissioner may require fingerprint cards be submitted with the application.

2. A repossession agency, or its qualifying agent, shall have and maintain a surety bond covering all of its agents and employees of not less than \$1,000,000 issued by an insurer licensed to conduct business in the state of Louisiana by the Louisiana Department of Insurance or a client protection bond approved by the commissioner which has been issued by an association.

3. A repossession agency must have commercial general liability insurance covering personal injury and

property damage with per occurrence, general aggregate and comprehensive aggregate limits of \$1,000,000; garage liability insurance covering any motor vehicle per accident limits of \$1,000,000; and garage keepers legal insurance with limits of \$300,000 direct primary coverage. The Office of Financial Institutions shall be named as the certificate holder and as an additional insured on all required insurance policies.

4. A repossession agency shall designate an individual as its qualifying agent who shall be licensed by the commissioner as a qualifying agent.

5. No license shall be issued in any name other than its legal name. No license shall be issued in any name which may be confused with or which is similar to any federal, state, parish, or municipal governmental function or agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as or so similar to that of any existing repossession agency as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

6. Failure to respond to any request by the office for additional information or documentation within 45 days of the request will result in the application being withdrawn from consideration and will require the filing of a new application and payment of an additional licensing fee.

C. Qualifying Agent

1. To obtain a license as a qualifying agent the applicant shall meet the following requirements:

- a. be 18 years of age or older and a citizen of the United States or a resident alien holding proper documentation to work in the United States;
- b. be of good character and fitness;
- c. not have been convicted of a felony in the previous 10 years, notwithstanding that the conviction was expunged, set aside, or received a first offense pardon. The only felony conviction which shall not be considered for purposes of this Chapter is one which received a governor's pardon or presidential pardon. The commissioner may require fingerprint cards be submitted with the application;
- d. be a member of an approved association;
- e. have three years experience as a repossession agent within the previous five years; and
- f. have received a designation as a certified recovery specialist from a recognized national certification program.

2. The qualifying agent shall be designated by the repossession agency. No licensing fee will be assessed for a qualifying agent.

3. The commissioner shall issue to each qualifying agent, an identification card which shall include at a minimum his name, the name of the repossession agency with which he is employed, an identification number assigned by the commissioner, and his driver's license number.

4. Failure to respond to any request by the office for additional information or documentation within 45 days of the request will result in the application being withdrawn from consideration and will require the filing of a new application and payment of additional licensing fee.

D. Repossession Agent

1. To obtain a license as a repossession agent the applicant shall meet the following requirements:

- a. be 18 years of age or older and a citizen of the United States or a resident alien holding proper documentation to work in the United States;
- b. be of good character and fitness;
- c. not have been convicted of a felony in the previous 10 years, notwithstanding that the conviction was expunged, set aside, or received a first offense pardon. The only felony conviction which shall not be considered for purposes of this Chapter is one which received a governor's pardon or president's pardon. The commissioner may require fingerprint cards be submitted with the application;
- d. have two years experience as a repossession agent or apprentice within the previous three years; and
- e. have received a designation as a certified recovery specialist from a recognized national certification program.

2. The commissioner shall issue to each repossession agent an identification card which shall include at a minimum his name, the name of the repossession agency with which he is employed, an identification number assigned by the commissioner, and his driver's license number.

3. Failure to respond to any request by the office for additional information or documentation within 45 days of the request will result in the application being withdrawn from consideration and will require the filing of a new application and payment of additional licensing fee.

E. Apprentice

1. A licensed repossession agency may apply for the licensing of a previously unlicensed individual as an apprentice by providing to the commissioner a letter of intent to sponsor and accept responsibility for the apprentice applicant.

2. Upon receipt of a letter of intent to sponsor, an application completed by the apprentice, and the non-refundable fee, the commissioner shall issue a letter of approval, provided the apprentice applicant satisfies the qualification requirements of §1303.D.1.a, b and c.

3. No repossession agency shall sponsor more than one apprentice for every two licensed repossession agents at any one time.

F. Previous Experience as a Repossession Agent

1. A year's experience shall consist of not less than 1,000 hours of actual compensated work performed by the applicant with a repossession agency preceding the filing of an application.

2. An applicant shall substantiate the claimed hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the commissioner as he may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from persons other than employers substantiating employment for consideration by the commissioner.

G. Continuing Education

1. Each qualifying agent, repossession agent, and apprentice shall complete a minimum of eight hours of collateral recovery education prior to license renewal.

2. Each qualifying agent and repossession agent shall submit with his renewal application documentation which provides name and address of the education provider, name of the course, date and number of hours attended.

3. The commissioner may determine if a continuing education course is not acceptable and require an additional continuing education course be taken within a specified period of time.

4. A continuing education course approved or offered by an approved association is deemed acceptable.

H. Request for a Hearing. Upon written request, an applicant may seek a hearing on the question of his qualification for a license if the commissioner has notified the applicant in writing that his application has been denied. A request for a hearing may not be made more than 30 days after the applicant has received the written notification that the application was denied and stating the commissioner's findings in support of the denial of the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2811 (December 2004).

§1305. Renewal Application; Change of Control; Change of Location; Change of Name

A. Annually by November 1 each repossession agency, qualifying agent, repossession agent, and apprentice shall file a renewal application and with the exception of the qualifying agent pay a non-refundable renewal fee.

1. An annual renewal application received by the commissioner postmarked after December 1 shall be accompanied by a late filing fee, in addition to the annual renewal fee.

2. If the annual renewal application and renewal fee are not received postmarked by December 31, the license shall lapse without a hearing or notification, and the license shall not be reinstated; however, the person whose license has lapsed may apply for a new license. No new license shall be issued upon the filing of a new application by any person against whom any penalty or late fee has been imposed unless and until such penalty or late fee previously accrued under this Section has been paid, and the commissioner has determined that the applicant has the requisite qualifications for a license.

B. No license shall be sold or otherwise transferred.

1. No person shall acquire or control a repossession agency license through the acquisition or control of 50 percent or greater ownership interest in a repossession agency without first filing a change of control application for approval by the commissioner and paying a non-refundable change of control fee. The change of control application shall be in a form prescribed by the commissioner. The commissioner shall consider the same factors and the applicant shall meet the same requirements as were required for the initial license application.

2. A repossession agency shall notify the commissioner of any anticipated change in any individual with power to direct the management or policies of a person regulated by this Chapter, including but not limited to any

officer, director, member or manager. The commissioner shall have the authority to remove any person who does not meet the requirements of §1303.B.1.

3. A repossession agency, in the event of an anticipated change of control, shall at least 60 days prior to the anticipated effective date file with the commissioner a change of control application, along with any legal documents which transfer ownership or control. Unless additional information is required, the commissioner shall review the application and information submitted and shall issue either an approval or denial of the change of control within 60 days of the receipt of the application.

4. Upon written request, a change of control applicant may seek a hearing on the question of his qualification for a license if the commissioner has notified the applicant in writing that his application has been denied.

5. A request for a hearing may not be made more than 30 days after the applicant has received the written notification that the application for change of control was denied and stating the commissioner's findings in support of the denial of the application, or more than 60 days after filing of the complete application when no approval has been granted.

6. Any person who acquires controlling interest in a repossession agency license without first filing an application and obtaining the commissioner's approval shall be deemed to be operating without proper authority under this Chapter.

C. A repossession agency shall make application to the commissioner and pay a fee prior to a change of its qualifying agent. However, if the qualifying agent leaves without notice, the repossession agency will have three business days to make application and pay the fee.

D. A repossession agency shall give the commissioner 30-day prior written notice of any name change or location change and pay a non-refundable fee.

E. A repossession agency shall notify the commissioner in writing within 30 days after ceasing to do business in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2813 (December 2004).

§1307. Fees

A. All fees are non-refundable.

1. License Application Fee

a. Repossession agency (which includes qualifying agent) ~~CS~~\$1500

b. Repossession agent ~~CS~~\$400

c. Apprentice ~~CS~~\$400

2. License Renewal Application Fee and Late Payment Penalty

a. Repossession agency (which includes qualifying agent) ~~CS~~\$1,000; late fee ~~CS~~\$500

b. Repossession agent ~~CS~~\$300; late fee ~~CS~~\$150

c. Apprentice ~~CS~~\$300; late fee ~~CS~~\$150

3. Repossession Agency Change of Control Application Fee

a. \$1,000

b. Penalty for late notice ~~CS~~\$500

4. Change of Designated Qualifying Agent

- a. \$500
- b. Penalty for late notice ~~CS~~\$250
- 5. Change of Location; Change of Name
 - a. \$300
 - b. Penalty for late notice ~~CS~~\$150
- 6. Replacement Identification Card
 - a. \$500
 - b. Penalty to repossession agent for failure to return identification card when employment ceases for any reason ~~CS~~\$1,000
- 7. Examination Fee
 - a. \$50 per hour, per examiner
 - b. Penalty for failure to pay examination fee within 30 days of billing ~~CS~~\$500

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2813 (December 2004).

§1309. Conduct of Business

A. Repossession Agency

1. A repossession agency shall at all times be responsible for those actions of its employees, including its manager, performed in violation of state law and this Chapter when acting within the course and scope of his or her employment.

2. A repossession agency shall maintain a file or record of the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated. The file and records, together with usual payroll records, shall be available for inspection by the commissioner or his designee, and copies thereof, and information pertaining thereto or contained therein, shall be submitted to the commissioner upon request.

3. A repossession agency shall publicly display the repossession agency's license and qualifying agent's license at its place of business.

4. A repossession agency shall give written notice within five business days following the termination of a repossession agent or apprentice and reasons for the termination.

B. A repossession agent shall notify the appropriate law enforcement agency immediately after collateral repossession and shall provide to the law enforcement agency a description of the collateral, vehicle license plate number, vehicle identification number, name of debtor, name of secured party, and address at which the repossession is occurring.

C. A repossession agent shall at all times, during the repossession of collateral, carry his identification card issued by the commissioner, along with his pictured driver's license. He shall also have documentation from the secured party authorizing repossession of the collateral and a copy of the repossession notice sent by the secured party to the debtor.

D. A repossession agent may make multiple attempts to repossess collateral without the necessity of an additional notice from the secured party to the debtor which is required in R.S. 6:966(A)(2).

E. No charge shall be made for services incurred in connection with the recovery, transportation, and storage of collateral, including repair work, except under terms agreed

to in writing by the responsible party at the time of the repossession authorization or specifically agreed upon at a subsequent time.

F. Within seven days after a violent act has occurred involving a repossession agency or any officer, partner, qualifying agent, repossession agent, apprentice or any other repossession agency employee, while acting within the course and scope of his or her employment, which results in a police report or bodily harm or bodily injury, the repossession agency, qualifying agent, repossession agent, or apprentice or any other repossession agency employee, shall mail or deliver to the commissioner a notice concerning the incident upon a form provided by the commissioner. A copy of the notice shall be provided to the secured creditor.

G. Every advertisement by a repossession agency, soliciting or advertising business, shall contain the repossession agency's name, address, and license number as they appear in the records of the office.

H. A repossession agent can contract with a licensed tow truck operator, who is not a licensed repossession agent, to assist with repossessions under the direction and in the presence of a licensed repossession agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2814 (December 2004).

§1311. Personal Effects

A. If personal effects not covered by a security agreement, are contained in or on collateral at the time it is recovered, the effects shall be removed from the collateral subject to the security interest, a complete and accurate inventory shall be made, and the personal effects shall be stored in a labeled container by the repossession agency at a location agreed to by the repossession agency and the secured party.

B. The inventory shall be in writing, shall state the date and time that it was made, shall include the name, address, business hours, and phone number of the person at the repossession agency to contact for recovering the personal effects and an itemization of all personal effect storage charges that shall be made by the repossession agency and shall be signed by the repossession agency employee who performs the inventory.

C. The following items of personal effects are items determined to present a danger or health hazard when recovered by the repossession agency and shall be disposed of in the following manner:

1. deadly weapons and dangerous drugs shall be turned over to a local law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency;

2. combustibles shall be inventoried and noted as "disposed of, dangerous combustible," and the item shall be disposed of in a reasonable, safe, and legal manner; and

3. food and other health hazard items shall be inventoried and noted as "disposed of, health hazard," and disposed of in a reasonable, safe, and legal manner.

D. Any personal effects unclaimed after 30 days reverts to the secured lender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2814 (December 2004).

§1313. Examination and Record Keeping

A. The commissioner shall have the power to examine all books, records, and accounts of all persons regulated under this Chapter.

B. Each repossession agency required to be licensed under this Chapter shall maintain in its offices such books, records, and accounts of its repossession activities as the commissioner may prescribe by policy as required to determine whether such repossession agency is complying with the provisions of this Chapter and the rules, regulations, and policies promulgated under the provisions of the Additional Default Remedies Act, R.S. 6:965, et seq.

C. Such books, records, and accounts shall be maintained separate and apart from any other business which the agency is involved. If the repossession agency's books, records, and accounts are located outside the state, the agency, at the commissioner's option, shall make them available to the commissioner at a location within the state convenient to the commissioner, or pay the reasonable and necessary expenses for the commissioner or his representatives to examine them at the place where they are maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2815 (December 2004).

§1315. Prohibitions

A. A repossession agency shall not:

1. use a name other than that which is on its license;
2. contract with a secured party for self-help repossession who is not authorized by the Additional Default Remedies Act to use the provisions of that Act;
3. allow an unlicensed person to repossess collateral;

or

4. allow an apprentice to repossess collateral without on-site supervision of a repossession agent;

5. use a tow truck unless such vehicle is compliant with the applicable provisions and rules of the Louisiana Towing and Storage Act (R.S. 32:1771 et seq. and LAC 55:1901 et seq.)

B. A repossession agent and apprentice under his supervision shall not:

1. repossess collateral as agent for anyone other than the repossession agency with which he is employed and licensed;

2. identify himself with a name or repossession agency other than the one with which he is licensed;

3. carry a dangerous weapon on his person or in his vehicle when repossessing collateral;

4. repossess collateral while under the influence of alcohol or a dangerous drug;

5. wear any clothing, badge, insignia, or any other item usually identified with law enforcement officers;

6. remove any personal effects from a repossessed automobile for personal use; or

7. fail to return his identification card to the commissioner within 10 days from ceasing employment with the repossession agency with which he is licensed.

C. A repossession agent and apprentice under his supervision shall not breach the peace which includes, but is not limited to:

1. unauthorized entry by a reposessor into a closed dwelling, whether locked or unlocked;

2. oral protest by a debtor to the reposessor against repossession prior to the reposessor seizing control of the collateral shall constitute a breach of the peace by the reposessor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2815 (December 2004).

§1317. Powers of the Commissioner

A. The commissioner shall have the power to issue subpoenas to any person for the purpose of discovering violations in this Chapter and to require the attendance of witnesses or the production of documents, conduct hearings in aid of any investigation or inquiry, administer oaths, and examine under oath any person in connection with the repossession activities of a repossession agency, qualifying agent, repossession agent, or apprentice. Service of any notice, order, or subpoena may be made by personal service or certified mail.

B. The commissioner shall have the power to issue cease and desist orders to protect the public's welfare.

C. After notice and opportunity to be heard as provided in the Administrative Procedure Act, the commissioner may revoke the license of a repossession agency, qualifying agent, or repossession agent that:

1. violates, in substance or in form, any of the provisions of this Chapter or any rule, regulation, or policy promulgated, or any order, including a cease and desist order, issued pursuant to the Additional Default Remedies Act;

2. has knowingly provided or caused to be provided to the commissioner any false or fraudulent misrepresentation of material fact or any false or fraudulent financial statement, or has suppressed or withheld from the commissioner any information which if submitted by him would have resulted in denial of the license application;

3. refuses to permit an examination by the commissioner of his books and affairs or has refused or failed within a reasonable time, as determined by the commissioner, to furnish any information or make any report that may be required by the commissioner under the provisions of this Chapter;

4. fails to maintain records as required by the commissioner after being given written notice and 30 days within which to correct the failure. The commissioner may grant, on good cause shown, up to two 30-day extensions within which to correct the recordkeeping violations;

5. continues in office or employment any individual with power to direct the management or policies of a person regulated by the Chapter, including but not limited to any

officer, director, or manager, if such individual is convicted of, pleads guilty to, or enters a plea of nolo contendere of any felony under any state or federal law;

6. violates any provision of a regulatory or prohibitory statute and has been found to have violated such statute by the governmental agency responsible for determining such violations;

7. knowingly engages in any transaction, practice, or course of business which perpetrates a fraud upon any person in connection with any collateral repossession;

8. fails to pay any fee or assessment imposed by this Chapter or by any rule, regulation, or policy promulgated in accordance with the Additional Default Remedies Act; or

9. fails, after notice and without lawful excuse, to obey any order or subpoena issued by the commissioner.

D. The commissioner may report egregious violations to the attorney general or to the district attorney of the appropriate parish, who may institute the proper proceedings to enjoin the violation and enforce the penalties provided for by this Chapter.

E. The commissioner may make public any administrative action instituted against a repossession agency, repossession agent, or apprentice for a violation of this Chapter or R.S. 6:965 et seq., including cease and desist orders, civil money penalty assessment, license suspension, revocation or application denial.

F. The commissioner may issue advisory opinions and interpretations regarding this Chapter, and such advisory opinions and interpretations shall not be considered rules requiring compliance with the rulemaking process of the Louisiana Administrative Procedure Act. The commissioner and the employees of the Office of Financial Institutions shall have no liability to any person with respect to an advisory opinion or interpretation issued in connection with this Chapter.

G. All grounds for suspension or revocation listed in this Chapter are violations of the Additional Default Remedies Act and may serve as the basis for any other enforcement action provided to the commissioner by said Act.

H. The commissioner may enter into cooperative and reciprocal agreements with the regulatory authorities of the federal government or of any state for the periodic examination of persons engaging in the business of collateral repossession and may accept reports of examination and other records from such authorities in lieu of conducting his own examinations. The commissioner may enter into joint actions with other regulatory bodies having concurrent jurisdiction or may enter into such actions independently to carry out his responsibilities under this Chapter and assure compliance with the laws of this state.

I. In addition to any other authority conferred upon the commissioner by this Chapter or the Additional Default Remedies Act, the commissioner may impose a penalty not exceeding \$1,000 per violation, per day which the violation continues, upon any person who he has determined to have violated this Chapter or any law in connection with self-help repossession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2815 (December 2004).

§1319. Notification or Service

A. Whenever a person becomes licensed by the commissioner, pursuant to this Chapter, such person shall provide a physical address to the commissioner that may be used as a basis for service or notification of any order or other issuance or communication by the commissioner to such person. Whenever such person changes his physical address, he shall notify the commissioner at least 30 days prior to the change. Notification or service of any order, notice, or other issuance or communication by the commissioner by certified mail to the address most recently provided to him by the person shall satisfy all requisites of service required for any registration, administrative enforcement, or other action, undertaken by him pursuant to the Louisiana Administrative Procedure Act or otherwise, in connection with such person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2816 (December 2004).

§1321. Severability

A. If any provision or item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provisions, items, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966.1(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 30:2816 (December 2004).

John Ducrest, CPA
Commissioner

0412#063

RULE

Office of the Governor Office of Financial Institutions

Savings and Loan Holding Companies
(LAC 10:V.1141, 1143, and 1145)

The Louisiana Office of Financial Institutions, pursuant to the authority contained in R.S. 6:101, et seq., the Louisiana Banking Law, and in accordance with R.S. 49:950 et seq., the Louisiana Administrative Procedure Act, hereby promulgates the following Rule to repeal Subchapter B.Savings and Loan Holding Companies, from the *Louisiana Administrative Code*. This action is necessary because the primary regulator and chartering authority for savings and loan holding companies is the Federal Office of Thrift Supervision, thus this Rule is rendered obsolete and no longer necessary. Repeal of this Rule will ensure consistent treatment for all holding companies of banks, savings banks, and savings and loan associations.